

1984 WL 249798 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 6, 1984

**\*1 Re: Bill H. 3199, R-310**

Honorable Richard W. Riley  
Governor  
State of South Carolina  
Post Office Box 11450  
Columbia, South Carolina 29211

Dear Governor Riley:

You have requested an opinion as to the constitutionality of Bill H. 3199, R-310, a bill which would repeal two statutes concerning a fish sanctuary ‘between Aerial’s Cross Roads and Galivant’s Ferry.’ Although the matter is not free doubt, it is our opinion that the bill is probably constitutional.

It is clear that the two statutes sought to be repealed by this bill are themselves violative of [Art. III, § 34\(VI\) of the Constitution](#). See Opinion of the Attorney General dated June 20, 1983. (Copy attached). A prior opinion of this office advised that a special act repealing a special act which violates [Article III Section 34\(IX\)](#) would not itself be unconstitutional.<sup>1</sup> On the basis of that authority we would advise that the subject bill is most probably constitutional.

Sincerely yours,

David C. Eckstrom  
Assistant Attorney General

Footnotes

<sup>1</sup> The question is not entirely free from doubt. The Supreme Court has held, in the context of the Home Rule Amendment to the Constitution, that ‘the provisions of Article VIII have divested the General Assembly of authority to deal by special act with special purpose districts . . .’ [Cooper River Park and Playground Commission v. City of N. Charleston](#), 273 S.C. 639, 642, 259 S.E.2d 107, 109 (1979). On the basis of that authority we have previously advised that Article VIII prohibits an act repealing a local act which relates to the ‘powers . . . set aside for counties’ pursuant to Article VIII. Opinion of the Attorney General dated April 29, 1983, (copy attached). In the context of home rule, we believe that that conclusion is proper. This bill does not present a home rule question, however, because counties have not been given the power ‘to provide for the protection of game.’ Cf. [§ 4-9-30\(5\) Code of Laws of South Carolina](#), 1976 (1983 Cumm.Supp.) with [Art. III, § 34\(VI\), South Carolina CONSTITUTION](#). Therefore only an [Art. III § 34](#) question is presented.

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